

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SAINT PAUL CITY COUNCIL

In the Matter of the License
Application of MFK Enterprises,
Inc., d/b/a MFK Enterprise

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter was heard by Administrative Law Judge Beverly Jones Heydinger, commencing at 9:30 a.m., June 5, 2000, at the St. Paul City Hall, Room 41, 15 West Kellogg Boulevard, Saint Paul, Minnesota. The hearing was held pursuant to a Notice of Hearing dated April 20, 2000, signed by Virginia D. Palmer, Assistant City Attorney, on behalf of the City of St. Paul. Ms. Palmer, 400 City Hall, 15 West Kellogg Blvd., Saint Paul, Minnesota 55102, appeared on behalf of the City. Michael Wilde, Attorney at Law, 360 North Robert St., Saint Paul, Minnesota. 55101, appeared on behalf of MFK Enterprises, In ., d/b/a MFK Enterprise, the Applicant. The record closed at the end of the hearing on June 5, 2000.

NOTICE

This report is a recommendation, not a final decision. The St. Paul City Council will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations.^[1] Pursuant to Minn. Stat. § 14.61 (1998), the City Council shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the City Council must consider the exceptions in making a final decision. A copy of the City Council's decision must be served on the parties and the Administrative Law Judge by first class mail.^[2] Parties should contact the Saint Paul City Council, 310 City Hall, Saint Paul, Minnesota 55102, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF THE ISSUES

The issue presented at this hearing was:

Should the City grant an auto repair license to MFK Enterprises, Inc.?

FINDINGS OF FACT

1. The Applicant, MFK Enterprises, Inc., d/b/a MFK Enterprise, operates a business at 830 South Robert St., St. Paul, Minnesota. At the present time, the Applicant holds a license to sell second-hand motor vehicles. At the same address, a

second business, Import Autos, also holds a license to sell second-hand motor vehicles.^[3]

2. The Applicant has applied for an auto repair license at the same location.^[4]

3. With certain conditions, the City's Office of License, Inspections, and Environmental Protection, has agreed to issue the license. The conditions are spelled out in Exhibit 4. Mr. Moe Faryaneh Kia, the owner of MFK Enterprises, Inc., agreed to those conditions.^[5]

4. A "legislative hearing" was held to address concerns that some neighbors had about the Applicant receiving an auto repair license.^[6] At that time, the City and the Applicant agreed to two additional conditions to address public concern. Those two additional conditions, to paint lines indicating customer and employee parking on the site by July 1, 2000, and to mark the parking with appropriate signage, were accepted by the City and the Applicant and added to the agreement previously signed by Mr. Kia.^[7]

5. When the Applicant's auto repair license came before the City Council for review, some persons objected to the permit, and the matter was set on for hearing before an Administrative Law Judge.^[8]

6. Notice of this hearing was sent to Steve Faust, Community Organizer, West Side Citizens Organization, 127 Winifred St., W., St. Paul, MN 55107.^[9] No community members appeared at the hearing to oppose the issuance of the license.

7. Mr. William Marsh lives at 838 South Robert St., St. Paul, MN 55107.^[10] This property is the first building to the south of MFK Enterprise. Mr. Marsh has no objection to the auto repair license being issued. In his opinion, MFK Enterprise is well-run. It does not interfere with his safety, nor does it disrupt or offend him in any way. The property is well-maintained, clean, and well-lit. Traffic entering and leaving the business has not adversely affected him. Mr. Marsh believes that the security lights on the property provide his own property with added protection. He has had no problems with Mr. Kia. Mr. Kia is approachable and cordial.^[11]

8. The Office of License, Inspections and Environmental Protection does not oppose issuance of the license.

9. Any Finding of Fact more properly termed as a Conclusion is hereby adopted as a Conclusion.

CONCLUSIONS

1. The Administrative Law Judge and the Saint Paul City Council have jurisdiction in this case.^[12]

2. The Applicant received timely and proper notice of the hearing and the City has complied with all relevant substantive and procedural requirements of statute and rule.^[13] The City has provided notice of the hearing to the local community organization.

3. The City has authority to grant a license and to impose certain conditions on that license.^[14]

4. The Applicant has shown by a preponderance of the evidence that it has met the requirements for an Auto Repair License.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that MFK Enterprises, Inc.'s application to operate an auto repair shop be GRANTED.

Dated this 9th day of June, 2000.

Beverly Jones Heydinger
Administrative Law Judge

Reported: Tape-recorded (one tape)

MEMORANDUM

Apparently there were members of the public who appeared at the City Council Meeting on March 8, 2000, to object to the auto repair license for the Applicant. No members of the community appeared at this hearing, nor did the Administrative Law Judge receive any communication from any member of the public. The City and the Applicant have agreed to the issuance of the license, with certain conditions, and there was no evidence or testimony in opposition to the license. One member of the public attended the hearing to lend his support to the Applicant. Thus, this Record fully supports the granting of the license to the Applicant.

BJH

- ^[1] St. Paul Legislative Code § 310.05 (c-1).
- ^[2] Minn. Stat. § 14.62, subd. 1 (1998).
- ^[3] Testimony of Lawrence Zangs.
- ^[4] Ex. 1.
- ^[5] Ex. 4.
- ^[6] St. Paul Legislative Code, § 310.04(d)(1).
- ^[7] Ex. 4; Ex. 5.
- ^[8] Exh. 6, item 37.
- ^[9] Ex. 7, 8.
- ^[10] “The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearings.” St. Paul Legislative Code, § 310.05(c).
- ^[11] Testimony of William Marsh.
- ^[12] Saint Paul Legislative Code, § 310.05.
- ^[13] See Minn. Stat. § 14.57 – 14.61, Saint Paul Legislative Code § 310.05.
- ^[14] Saint Paul Legislative Code §§ 310.04 and 310.06.